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Attorneys for Defendant
Best Buy Co., Inc.



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEVIN DULCE, individually, and
on behalf of other members of the
general public similarly situated,

Plaintiff,

v.

BEST BUY CO., INC. a Minnesota
corporation; and Does 1 through 10,
inclusive,

Defendants.

Case No. C11-01731 (MEJ)

**NOTICE AND STIPULATION OF
VOLUNTARY DISMISSAL
PURSUANT TO FEDERAL RULE
OF CIVIL PROCEDURE 41(a)**

Plaintiff Kevin Dulce ("Plaintiff") and Defendant Best Buy Co., Inc.
("Defendant"), by and through their counsel of record, stipulate as follows pursuant

1 to Federal Rule of Civil Procedure 41(a)(1)(A)(ii):

2 1. Plaintiff's complaint was originally filed in the Superior Court of the
3 State of California for the County of Alameda ("Alameda Superior Court") on
4 March 2, 2011, Case No. HG-11563669;

5 2. Plaintiff's counsel recently determined that Plaintiff used a debit card,
6 and not a credit card, to consummate the subject transaction described in Plaintiff's
7 state court complaint. Plaintiff's counsel further determined that Plaintiff could not,
8 therefore, represent the class of "persons in California who used a *credit card* to
9 purchase merchandise or services from Defendants" alleged in Paragraph 19 of the
10 state court complaint;

11 3. Accordingly, Plaintiff's counsel filed a Request for Dismissal, without
12 prejudice, and accompanying declaration with the Alameda Superior Court on April
13 7, 2011;

14 4. The Alameda Superior Court dismissed Plaintiff's Complaint, without
15 prejudice, on April 8, 2011;

16 5. Simultaneous to the Alameda Superior Court's dismissal, Defendant
17 inadvertently removed this case to this Court from the Alameda Superior Court;

18 6. Defendant Best Buy Co., Inc. now files concurrently with this
19 Stipulation of Voluntary Dismissal a Notice of Errata regarding the inadvertent
20 removal of the above entitled action;

21 7. The parties stipulate that this case should be dismissed without
22 prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii);

23 8. The parties agree that each will bear their own attorneys' fees and
24 costs;

25 9. No payments have been made to either Plaintiff or his counsel in
26 exchange for any agreement to voluntarily dismiss this action; and

27 10. No notice to the proposed class is required under Federal Rule of Civil
28 Procedure 23(e); as Plaintiff has not moved for class certification and no class has

1 been certified.

2 IT IS THEREFORE STIPULATED AND AGREED AMONG THE
3 PARTIES that:

4 A. This case is dismissed in its entirety without prejudice pursuant to
5 Federal Rule of Civil Procedure 41(a)(1)(A)(ii); and

6 B. The parties shall bear their own attorneys' fees and costs.

7 DATED: April 11, 2011 INITIATIVE LEGAL GROUP APC

8 By: /s/ Miriam Schimmel
9 Miriam Schimmel
10 David Cheng
11 Joshua Carlton

12 **ATTORNEYS FOR PLAINTIFF**
KEVIN DULCE

13 DATED: April 11, 2011 **ROBINS, KAPLAN, MILLER & CIRESI L.L.P.**

14 By: /s/ Michael A. Geibelson
15 Michael A. Geibelson
16 Stephanie C. Santoro

17 **ATTORNEYS FOR DEFENDANT**
18 **BEST BUY CO., INC.**

CERTIFICATE OF SERVICE
[FRCP, Rules 4, 5]

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 2049 Century Park East, Suite 3400, Los Angeles, California 90067.

On April 1, 2011, I served the foregoing documents described as **NOTICE AND STIPULATION OF VOLUNTARY DISMISSAL PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 41(a)** on the interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

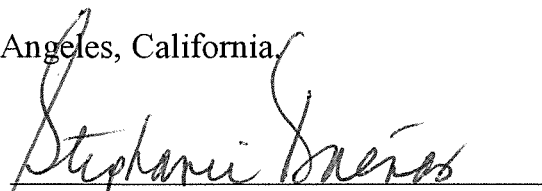
Joshua Carlon
Initiative Legal Group
1800 Century Park East, 2nd Floor
Los Angeles, CA 90067

[X] BY MAIL: I caused such envelope to be deposited in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[X] (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction service was made.

Executed on April 1, 2011 at Los Angeles, California.


Stephanie Duenas